

"ADEQUACY" OF SCHOOL FUNDING – LEGAL BACKGROUND

Article X, section 1. Educational goals and duties. (1) *It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.*

(2) *The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.*

(3) *The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.*

2004-2005: Columbia Falls Elem. School Dist. No. 6 v. State, Cause No. BDV-2002-528 (1st Jud. Dist., Mont.) (2004), affirmed in Columbia Fall Elem. School Dist. No. 6 v. State, 2005 MT 69 (2005).

In 2002, school districts and stakeholder associations sued the state, challenging the school funding system as unconstitutional for failing to provide adequate state funding to the school districts:

- "In school finance terminology, a school finance system should satisfy principles of equity and adequacy. That is, it should provide adequate funding to allow districts to meet the expectations established under state law, and the funding should be allocated in an equitable manner to assure equal opportunities for all students in the state." (Dist. Ct., Findings of Fact ¶ 139)
- "A particular requirement is that the funding system must be based on educationally-relevant factors. This requires that the funding system be based on the costs of meeting the standards that govern the operation of Montana's schools. Once adequate levels of funding are determined, the State must then fund its share of the cost of the system." (Dist. Ct., Findings of Fact ¶ 195)
- Specific Findings of Fact included:
 - The HB 667 school financing scheme "is clearly complicated and hard to understand." (Dist. Ct., Findings of Fact ¶ 74)
 - There was no mechanism to deal with inflation. (Dist. Ct., Findings of Fact ¶ 75a)
 - The figures established in HB 667 weren't based on any study of teacher pay, the cost of meeting accreditation standards, the fixed costs of school districts, or the costs of special education. (Dist. Ct., Findings of Fact ¶ 75b)
 - Any increases in school district budgets allowed under HB 667 were not tied to costs of increased accreditation standards or the new content and performance standards. (Dist. Ct., Findings of Fact ¶ 75c)
 - From 1994 to 2003, the number of schools in a deficiency accreditation status increased from about 4% to 18%. (¶ 90) In contrast, from 1991 to 2003, the state share of the general fund budget declined from 71.44% to 60.95%, and the state's share of all budgeted funds fell from 54.29% to 42.59% over roughly the same time period. (Dist. Ct., Findings of Fact ¶¶ 100-101)
 - While the Legislature enacted Indian Education for All in HB 528 (1999), there had never been any funding provided to institute programs or procure resources to implement Indian Education for All. (Dist. Ct., Findings of Fact ¶¶ 176-177)
- The Court concluded that the state violated Article X, section 1 of the Montana Constitution because: "the State has failed to recognize the distinct and unique cultural heritage of American Indians and has shown no commitment in its educational goals to the preservation of their cultural identity"; the school funding system "fails to provide adequate funding for Montana's public schools"; and finally, "the State is not paying its share of the cost of the basic elementary and secondary school system." (Dist. Ct., Conclusions of Law ¶¶ 8-10)

The parties appealed the District Court's decision, which was ultimately affirmed by the Supreme Court:

- "We affirm the court's determination that the current system violates Article X, Section 1(3), but we also defer to the Legislature for the definition of 'quality' as used in that constitutional provision." (Sup. Ct., ¶ 11)
- "This funding system is not correlated with any understanding of what constitutes a 'quality' education... since the Legislature has not defined 'quality' as that term is used in Article X, section 1(3), we cannot conclude that the current funding system was designed to provide a quality education. ... in creating the spending formula of HB 667, [the Legislature] did not link the formula to any factors that might constitute a 'quality' education." (Sup. Ct., ¶ 25)
- "Without an assessment of what constitutes a 'quality' education, the Legislature has no reference point from which to relate funding to relevant educational needs. In the absence of a threshold definition of quality, we cannot conclude the system is adequately funded as required by Article X, Section 1(3)." (Sup. Ct., ¶ 27)
- "[We] defer to the Legislature to provide a threshold definition of what [Art. X, sec. 1(3)] requires. We also conclude, however, that given the unchallenged findings made by the District Court, whatever definition the Legislature devises, the current funding system is not grounded in principles of quality, and cannot be deemed constitutionally sufficient." (Sup. Ct. ¶ 31)

Subsequent Legislative Action

- In the 2005 Regular Session, the Legislature enacted SB 152, which defined a "basic system of free quality public elementary and secondary schools" in 20-9-309(2); in subsection (3), provided a list of educationally relevant factors, such as the number of students in a district and the ability of school districts to attract and retain qualified educators and other personnel; and in subsection (5), required the Legislature to authorize a study to reassess the school funding formula at least every 10 years.
- The Legislature also created the Quality Schools Interim Committee (QSIC) via SB 525 to fulfill the requirements of 20-9-309. QSIC met between May and December 2005 to assess the educational needs of children and determine the costs of providing the basic system of free quality public elementary and secondary schools. QSIC also contracted with a number of consultants to assist with the work. The work resulted in a proposal for a new school funding formula based on nine components, some of which were ultimately adopted into the existing formula.
- The Legislature met again in December 2005 for the 2005 Special Session. Among the bills passed was SB 1, which created four new component payments, to be fully funded with state funds. Those components are the Quality Educator payment, the At-Risk Student payment, the American Indian Achievement Gap payment, and the Indian Education for All payment.
- In the May 2007 Special Session, the Legislature enacted SB 2, providing full-time per-ANB funding for kindergarten students, creating a new middle school basic entitlement, and raising the GTB ratio from 175% to 193%. The Legislature also appropriated \$30 million in one-time-only funds to school districts in fiscal year 2008 for capital improvements and maintenance.

2008: Columbia Falls Elem. School Dist. No. 6 v. State, Cause No. BDV-2002-528, 2008 Mont. Dist. LEXIS 483 ("Columbia Falls II")

In February 2008, the plaintiffs filed a renewed motion for supplemental relief, requesting a declaration from the court as to whether the state was complying with its constitutional obligations.

- The District Court held a hearing and framed the issue as the extent to which the Legislature complied with the Montana Supreme Court's 2005 order and the District Court's 2004 hearing. (Dist. Ct. ¶¶ 4-6)
- The parties agreed that the Legislature had properly defined a basic system of free quality public elementary and secondary schools (see 20-9-309, MCA), and also the state was providing adequate funding for Indian Education for All students, rendering these two prior issues resolved. The District Court detailed an additional twelve issues addressed in the previous court orders, including the definition of a

quality education, lack of an inflationary provision in the school funding formula, and whether the funding provided by the state relates to the needs of providing a quality education. (Dist. Ct. ¶¶ 7-22)

- The District Court noted that the Legislature addressed earlier concerns about a lack of automatic inflation adjustments by providing for an inflation factor in 20-9-326, MCA. While the inflation adjustment is capped at 3% a year, and while the 2007 Legislature did not adjust the 4 new component payments from the 2005 Special Session, the opinion also notes that "Although these findings do reflect some problems with the current inflationary adjustment provided by the State, it must be also found that having an automatic inflationary adjustment as currently provided by the legislature is a dramatic improvement of the situation earlier found by this Court in 2004." (Dist. Ct. ¶¶ 79, 84)
- In terms of the state's share of general fund budgets, the District Court noted that "Due to many of the funding mechanisms noted earlier, [the state's] share increased [from 60.5% in 2004] to 63.5 percent in fiscal year 2008, and 63.11 percent in fiscal year 2009. Thus, it appears that the State is heading in the right direction. Total ongoing State aid for K-12 education has increased from \$553 million in fiscal year 2004 to \$701 million in fiscal year 2009." (Dist. Ct. ¶ 116) The Court also noted that ongoing State aid per pupil increased from \$3,738 to \$4,947 in the same time period. (Dist. Ct. ¶ 117)
- The District Court concluded that "the State has determined the cost of providing an education in the state of Montana. That determination is not only in [the] QSIC study, but it is also in the various studies mentioned in... and otherwise prepared in conjunction with the R.J. Wood study, and through the whole QSIC process. The legislature, then, had a whole smorgasbord of numbers from which to choose. Probably the biggest problem in this case is that there is not a bright line connecting many of the cost figures to the money actually allocated by the legislature." (Dist. Ct. ¶ 145)
- While the District Court ultimately decided against granting supplemental relief to the plaintiffs, the Court also chose to provide some additional comments to assist the parties in avoiding future problems:
 - While the state made "excellent contributions" to ongoing state aid between 2005 and 2008, the amount of the increase in 2009 dropped to 1.9%. The Court urged the increase in state aid from year to year in a reflection of the trend of 2005-2008, "to avoid future problems". (Dist. Ct. ¶ 147)
 - Total state aid to district general funds increased from 2004 to 2008, but slipped down about .39%, leading the Court to comment that "In the view of this Court, this figure should not be declining, but should either be increasing or at least staying the same." (Dist. Ct. ¶¶ 116, 147)
 - "The costs of special education need to be addressed. ... State appropriations for special education have fallen far short of the growth in costs. The increased competition for general fund dollars between special and general education continues." (Dist. Ct. ¶ 149)
- The opinion noted "In reviewing the testimony in this case, the Court must reiterate the confounding complexity of Montana's school funding system." (Dist. Ct. ¶ 152)
- In its Conclusions of Law, the District Court concluded "that it is not the obligation of the legislature to fully fund whatever programs the individual school districts have adopted. The legislature is under no obligation to adopt an expenditure-based system in which the legislature would be required to fund whatever the districts request. It is up to the legislature to set the educational standards and provide an amount of funding equal to what it determines is necessary to [meet] those standards." (Dist. Ct. ¶ 166)
- Other Conclusions of Law include:
 - "The State is in the process of making a good faith effort to preserve and protect Montana's constitutional commitment to a sound public educational system." (Dist. Ct. ¶ 167)
 - The funding formula established by the legislature was not entirely self-executing, even though it includes a mechanism for annual inflationary adjustments. (Dist. Ct. ¶ 172)
 - "The legislature is in the process of establishing a funding formula that distributes to school districts in an equitable manner the State's share of the costs of the basic system of free quality public elementary and secondary schools." (Dist. Ct. ¶ 173)
 - "The legislature continues to consider the programs and costs related to the basic system of free quality public elementary and secondary schools and can, if necessary, adjust the State's funding formula based on educationally relevant factors." (Dist. Ct. ¶ 175)